(7) 1

Appeal 92 of 94-95

In the Court of the Asst Commr	In the Court of the Dy Commr	Before Court	
Tsishwaffa	Defendant	{ appellant + Respondent	Appellant
vs			
Tangaffa	Plaintiff	{ Respondent + appellant	Respondent

Appellant brought a suit in the Court of the General Asst Commr, Tumaker for the establishment of his right to and recovery of possession of his staff shaped in the shape of Madder Seika, also called Cunsting of three ~~sticks~~ veloges viz Guadaloon, Boppanadu and Amuffeng-kally. It was pleaded by the Defendant that Kolladen & Mailkunta ~~Tsitten~~ along with Madder Seika belonged to the parties and two other families had also been

made parties to the suit and that the Plaintiff was entitled only to a eighth share. The Court Commr found that the Members of the two families referred to were divided in interest from the parties to the suit, that they got Kottadu and Mallikuttu Fields for their share while Madan fell to that of the Plaintiff and the Defendant, and that the Suit was not bad for non-joinder of parties. He held that Plaintiff and Defendant were each entitled to a half share in the Madan Field but that Plaintiff was not entitled to immediate possession as Defendant had been performing the duties of the office for some time past and that his Claims would be considered on the occurrence of a vacancy or when the whole Came to the Amin's table by God-

G. R. S. IX-5]

Previous references.

File No. 140 of 94

~~192~~

(KR)

Serial Nos. 1–6

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1–6

Major ~~Part~~ B for June 1895

SUBJECT.

Appeal of Krishnappa regarding the Shanbhogi of Madalur—Sira Taluk.

WD 2223—GPB—20,000—14-6-20

Index

AS

In this case both the Lower Courts have found concurrently that the Office is a hereditary Hereditary of the village in dispute. This finding is supported by exhibit D order of Dy Court passed in 1880, & K a petition presented by both them parties what after during the settlement of 1880. Dft which is the appellant before Govt contends that K was not a voluntarily executed document - But the Courts have found this point in the negative. It seems Govt unnecessary to re-open this question which has been found concurrently by both the Courts. The Office is entitled to be registered as a hereditary Hereditary

But the Decree given by the Dy Court in reversal of the Decree of the Lower Court divides one charge into two distinct charges. This proceeding is objected to the new taken by Govt in order No 11829-37 of the 24th Jany 1895. Pet 7 35-96 So long ago as 1880 the Dy Court thought that the splitting up of these villages

3

into two charges was un-
-necessary and this new
Commends itself both as
being sound. The direction
now made by the D.J. Court
in this Case conforms with
rule recognised in Khandesh
of Sort above quoted is retain
The Case will simply declare
that the Sff is entitled to charg
ing and that the declaration
be rendered in the Shambhogue
Barabalawala by Sister.

To Abdul Rahiman Saheb Esq
Khandesh

8.6.95

Subd to 3rd Committee
8/6/95.

5

8 (1)

'Gen. Serial No. 32.]

189

No. 1754

Name of Petitioner. Ramadiappa 1st Grade Reader

Village.

Taluk. Tanjore

District.

Date of Arzi. 13-9-94

Date of Receipt. 21-12-94

Date of Disposal.

No. of Enclosures. 9 affidavits

ABSTRACT

Ramadiappa 1st Grade Reader present on appeal in behalf of Madasar Shanbogue Krishnappa against the order of the Deputy Commr Tanjore in connection with the Shanbogue title to a moiety of the office of Shanbogue on the following grounds:-

1. That, in the examination of the Respondents elected

10 original defendant Krishnappa while he had had no hand in it and the lower court decision based upon such agreement is wrong

(4) That the alleration, without proper authority, of the shares formerly registered is not just and the lower court failed to recognize this fact.

(5th) That the breaking up of the circle (containing the villages mentioned in the plaint) is contrary to the prescribed scale rules.

(6) That the decree that the original defendant Krishnappa should bear all costs is unjust.

The depn Commr's judgment is in English

showed that the original plaintiff (Rangappa) is entitled to 1/8 share of the office of Shanbogue, the lower Court decision contrary to above facts is wrong

(2) That the petition alleged to have been written by Krishnappa to the deputy coming in 1880 is false and that the lower Court failed to take into consideration this fact though proved by three of the ~~plaintiffs~~ defendants' witnesses.

(3) That the ~~office of~~ Shanbogue Office ~~together~~ of the circle in dispute, together with that of two other circles, belonged ~~to the common ancestor~~ to one Appanna, the common ancestor of the litigants and that as such all are equally entitled to a share in the office and that the agreement alleged to have been entered into by some of the share holders is not binding upon the

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31
30
Dec 20
9 12
S

12

Gen. Serial No. 31.]

10908

1894-95. Pet 467

From

The Deputy Commissioner
Tumkur District.

(3)

To

The Chief Secretary to
Govt of Mysore.

Dated 21st February 1895.

Despatched —do—

Received

Enclosures No. 3 files.

General No. 715.
No.

His official Memo: No. Pet. 1148 of the 10th instant.—

Submitting the entire records connected with the Shanbogi of the Modakir Girka in the Sira Taluk.—

Pet. Branch
25/2

Pet 1145 1

12-2-95

MYSORE, DEWAN'S OFFICE.

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 1184

dated 19-9-94 received at the Dewan's Office from Krishnappa of Chadachan, Tiptur, appeal against the Deputy Commissioner's decision in Rev. Appeal No 4 of 93-94 regarding the Sharing of the Chalkeri Tank,

is forwarded, together with its enclosures, to the Deputy Commissioner Tumkur District, for submission of the entire Records connected with the case.

The petition with its enclosures should be returned

By Order,

Draft

Chief Secretary.

BANGALORE,
12-2-1895

M.G.C.P, Bangalore.—3-5-94.—1,000.

ಮಾನ್ಯರೇ,

ನಾನು ಈ ಕೆಳಕಂಡ ಸ್ಥಿರಾಸ್ತಿಯನ್ನು ಕ್ರಯಕ್ಕೆ ಪಡೆಯಲು ಇಚ್ಛಿಸಿರುತ್ತೇನೆ. ಈ ಸ್ಥಿರಾಸ್ತಿಯ ಮೇಲೆ ಯಾವುದೇ ಋಣಭಾರವಾಗಲೀ ಅಥವಾ ಇನ್ನಿತರ ಯಾವುದೇ ಹಕ್ಕುಬಾಧ್ಯತೆಗಳಾಗಲೀ ಇರುವುದಿಲ್ಲವೆಂದು ಖಾತ್ರಿಪಡಿಸಿಕೊಂಡು ಕ್ರಯಪತ್ರವನ್ನು ಬರೆಯಿಸಿಕೊಡಬೇಕಾಗಿ ಕೋರುತ್ತೇನೆ.

ಸ್ಥಿರಾಸ್ತಿಯ ವಿವರ

ಮೈಸೂರು ತಾಲ್ಲೂಕು ಮತ್ತು ಮೈಸೂರು ಸಬ್‌ರಿಜಿಸ್ಟ್ರಾರ್ ಕಛೇರಿ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ಮೈಸೂರು ನಗರದ ಸರ್ವೆ ನಂ. ೧೨೨೫ ಕ್ಕೆ ಸೇರಿದ ಮೈಸೂರು ನಗರದ ಹಳೆಯ ಸಂಖ್ಯೆ ೧೨೨೫ ಕ್ಕೆ ಹೊಸ ಸಂಖ್ಯೆ ೧೨೨೫-೧೪೧೪-೧೪೧೪ ಕ್ಕೆ ಪಶ್ಚಿಮಾಭಿಮುಖವಾಗಿರುವ ಸೈಟ್ ನಂ. ೧೪೧೪ ರ ಪೂರ್ವಕ್ಕೆ ೩೦ ಅಡಿ ಉತ್ತರಕ್ಕೆ ೪೦ ಅಡಿ ಪಶ್ಚಿಮಕ್ಕೆ ೩೦ ಅಡಿ ದಕ್ಷಿಣಕ್ಕೆ ೪೦ ಅಡಿ ಒಟ್ಟು ೧೨೦೦ ಚದರ ಅಡಿ ಅಳತೆಯ ನಿವೇಶನ.

ಈ ನಿವೇಶನದ ಪೂರ್ವಕ್ಕೆ ಸೈಟ್ ನಂ. ೧೪೧೫ ಪಶ್ಚಿಮಕ್ಕೆ ಸೈಟ್ ನಂ. ೧೪೧೩ ಉತ್ತರಕ್ಕೆ ಸೈಟ್ ನಂ. ೧೪೧೨ ದಕ್ಷಿಣಕ್ಕೆ ೨೦ ಅಡಿ ಅಗಲದ ರಸ್ತೆ ಇರುತ್ತದೆ.

ಈ ನಿವೇಶನವನ್ನು ಶ್ರೀ ಎಂ. ಕೃಷ್ಣಮೂರ್ತಿ ಮತ್ತು ಶ್ರೀಮತಿ ಲಕ್ಷ್ಮಮ್ಮ ಇವರು ಕ್ರಯಪತ್ರ ಸಂಖ್ಯೆ ೨೫೦/೧೯೭೪-೭೫ ರಂತೆ ದಿನಾಂಕ ೧೪-೩-೧೯೭೪ ರಂದು ಕ್ರಯಕ್ಕೆ ಪಡೆದಿರುತ್ತಾರೆ.

ಈ ನಿವೇಶನದ ಮೇಲೆ ಯಾವುದೇ ಋಣಭಾರವಾಗಲೀ ಅಥವಾ ಇನ್ನಿತರ ಯಾವುದೇ ಹಕ್ಕುಬಾಧ್ಯತೆಗಳಾಗಲೀ ಇರುವುದಿಲ್ಲವೆಂದು ಖಾತ್ರಿಪಡಿಸಿಕೊಂಡು ಕ್ರಯಪತ್ರವನ್ನು ಬರೆಯಿಸಿಕೊಡಬೇಕಾಗಿ ಕೋರುತ್ತೇನೆ.

ಇಂತಿ ತಮ್ಮ ವಿಶ್ವಾಸಿ

ಸಹಿ/-

ಸ್ಥಳ: ಮೈಸೂರು
ದಿನಾಂಕ: ೨೮-೬-೧೯೭೫

ಸಾಕ್ಷಿಗಳು:

೧. ಸಹಿ/-
೨. ಸಹಿ/-

MYSORE COURT FEE

MYSORE REVENUE OFFICE
REGISTRATION DEPARTMENT
REGD. NO. 1784
DATE 21-12-74

28-6-75

[illegible]

4 [illegible]

5 [illegible]

6 [illegible]

[illegible]

ಸಂಖ್ಯೆ: ಕೃಷಿಇ/ಕೃಷಿಯಂತ್ರ/ಟಿಎಂಪಿ/೨೦೧೭-೧೮/೧೫

ಕೃಷಿ ಇಲಾಖೆ ಯೋಜನೆಗಳಡಿ ಟ್ರಾಕ್ಟರ್ ಚಾಲಿತ ಉಪಕರಣಗಳನ್ನು ಖರೀದಿಸಲು ಸಹಾಯಧನ ಬಿಡುಗಡೆ ಮಾಡಿರುವ ಬಗ್ಗೆ.

ಉಲ್ಲೇಖ: ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಕೃಇಇ/೨೦೧೭/೧೫೨ ದಿನಾಂಕ: ೧೨.೦೪.೨೦೧೭

ಮೇಲ್ಕಂಡ ವಿಷಯ ಮತ್ತು ಉಲ್ಲೇಖಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಕೃಷಿ ಇಲಾಖೆ ಯೋಜನೆಗಳಡಿ ಟ್ರಾಕ್ಟರ್ ಚಾಲಿತ ಉಪಕರಣಗಳನ್ನು ಖರೀದಿಸಲು ಸಹಾಯಧನ ಬಿಡುಗಡೆ ಮಾಡಿರುವ ಬಗ್ಗೆ ಸರ್ಕಾರದ ಆದೇಶವನ್ನು ಉಲ್ಲೇಖದಲ್ಲಿ ಓದಲಾಗಿದೆ.

ಸರ್ಕಾರದ ಆದೇಶದಲ್ಲಿ ಕೃಷಿ ಇಲಾಖೆ ಯೋಜನೆಗಳಡಿ ಟ್ರಾಕ್ಟರ್ ಚಾಲಿತ ಉಪಕರಣಗಳನ್ನು ಖರೀದಿಸಲು ಸಹಾಯಧನ ಬಿಡುಗಡೆ ಮಾಡಿರುವ ಬಗ್ಗೆ ಸರ್ಕಾರದ ಆದೇಶವನ್ನು ಉಲ್ಲೇಖದಲ್ಲಿ ಓದಲಾಗಿದೆ.

13-8-94

17

(3)

In the Court of the Treasury Assistant Commissioner Jenkins

Dated 31st July 1894.

Before B. J Kumaraswami Naick Esqr. B. A.

Revenue Case number 3 of 1894

Plaintiff	Defendant
Rungappa	Krishnappa

Judgment

The suit was for the recovery of one half-share of the shanboguè hak of the Madlur Firka, consisting of thirteen vil belonging to the Sira Taluk.

1. The facts alleged by the Plaintiff are, 1st that the shanboguè office of the said 13 villages belongs to the hereditary hak of both the Plaintiff and the Defendant 2nd that Giriyappa the deceased father of the Plaintiff was giving one half of

the

acting to this suggestion ordered that
the defendant may plead in the suit in charge
of the parties, declaring at the said time
that the Plaintiff has a right to one half
share of the Shanbogueship, & that
both the parties, joined to the Deputy
Commissioner requesting him to appoint each
of them in charge of a piece on the 27th
December 1858, & that, with the consent
of both the parties, one half of the Inclemans
belonging to the Eastern villages which
are the subject of the suit, was being
distributed to the Plaintiff's Government
since the year 1851, until to the year, 1854-
55, & that the Plaintiff possessed one half
of the Cash in the Shanbogueship in
question is undisputed, & that Government
[illegible] enjoyed, there was none to object
to the parties getting each one half share
of the Shanbogueship, & that the cause
of

action arose in the year, 1885-86, when the payment of one half of the Sivanthagami's Emoluments was ceased ——

2. The Defendants states that it is not set forth in the plaint what relationship the Plaintiff bears towards the Defendants and to what family they belong & that a family tree showing the details of the lineage of both of them is produced by him, that all the illeni descendants of the common ancestor Ayyanna possess more or less shares in the Sivanthagamship of the 13 Villages now in dispute, in that of the 16 villages of the Kottadatcha now held by the members of Ekkapichal family, and in that of 31 villages of the Mudukunta Jatcha, aggregating on the whole 42 villages the Plaintiff being entitled according to the rule of succession, to only $\frac{1}{8}$th share & not

to one half share as alleged by him, that to
3/1 five other members of the said Athramana
family are entitled to be joined as
parties to the suit and the defendant
possesses 1/2 share of the Shanbogué hak
in all the 42 Villages mentioned above,
the suit brought by the Plaintiff
regarding the hak of only 13 Villages
being untenable, as the hak of each
member has to be ascertained with reference
to all the forty two villages, that the
Shanboguéship of all the 42 Villages
was divided among, and held by,
different persons, in several shares,
in the last, just as it suited the convenience
of Government and also those concerned therewith,
but that a regular investigation is to be
made now with a view to discuss and
determine the hak which each member
of the said family is now entitled to,
according

according to the principles of the law of succession, as the suit in question relates to a right claimed by a family thereto built that a decision passed in the year 1870 during the Pakka Plot settlement declaring that the Plaintiff is entitled to one half share does not extinguish the legitimate rights of the parties, as it was not one arrived at upon a regular Enquiry and in the presence of all the persons concerned, that petition case to have been given by both the parties in the year 1870, is not one given voluntarily by the defendant, and that the suit is consequently, not maintainable. ——

3. The following issues were framed by the Amildar ——

1st Whether the Plaintiff is entitled to one half share as alleged by him, or one eighth share as stated by the defendant ——

4/

~~assistant the~~

in the Chamberlain's Register in question —

2nd=whether the petition given by both the Plaintiff and the Defendant in the year 1830 was given Plaintiff or not by the Defendants —

3rd=for what period and with what object Shanbogue's Emoluments were being disbursed to the Plaintiff —

4th=by the Plaintiff was deprived of the right of Emolument as specified with by the Patels of both the Plaintiff and the Defendant —

4. The following witnesses were Examined and Exhibits filed by the Plaintiff

Witnesses — 1st Krishnappa (the Defendant)

2nd Shanbogue Ranganna of Kotta

3rd Ranganna 4th Thimappa

Exhibits A Copy of Shanbogue Register of the Madhu Patta for the

year 1865.

B. ~~Exhibit~~ Extract from the Kacha Poli disbursement Register of the year 1876. ———

C. An Extract from the Register showing the payment of Poli to Shanbogues in the Sira Taluk for the years — 1871-72, 1872-73, 1873-1874, 1874-1875.

D. Copy of the Miscellaneous enquiries by the Deputy Commissioner in case Nos 69 of 1874-75 in the year 1880.

E. Extract from the Register of Kacha Poli disbursement of the year 1875-76.

F. ——— Do ——— Do ——— of the year Kharana ———

G. Extract from the Khirdi of the year 1882-83. Collecting Kandayam out of Poli due to Rangaiya, the Plaintiff.

H. Do ——— Do ——— determining Plaintiff's Kandayam and that of his uncle

5 J. — do — do — of the year 1883-84.

J Extract from the Register of Judgment during the year 1884-85

K. Copy of a petition addressed to the Deputy Commissioner by both the parties in the year 1880. —

L. Copy of Sanad issued Register of Kottada Taluq for the year 1865. —

M A document Executed (Kattadasiha) in favour of Kottada Zamindar on 3rd October 1868.

5 The following witnesses were Examined and Exhibits filed in behalf of the Defendant —

1 Karegowda. 2 Timmagowda —

Exhibits —

I Settlement deed Executed by Sanbooge (Kattadasiha) Narayappa Zamindar Gurumurthy on 21st December 1865.

II Genealogical tree. —

III Copy of Register of Madalur Fasli — prepared & submitted to the District Magoor during the year 1867 ——

IV Extract from the Register of the Madalur Fasli of the year ~~Vikrama~~ Vikari

V Do —— do of Kottara Fasli.

6. The parties were represented by Pleaders Messrs Venkatachar and Ramadasappa —

Read all the records connected with the case and heard at length the arguments of the Pleaders on either side.

7. The several issues framed in this case ~~with~~ will be discussed and disposed of as hereunder. The chief point that arises in this case is is whether the Plaintiff is entitled to one half or 1/8th share in the Swantagrahar of the Madalur Fasli. The Plaintiff alleges that the right ~~title~~ and interest in

to the then Deputy Commissioner voluntarily by him. The circumstances of the case will moreover lead to the presumption that the Plaintiff as well as the Defendant should have petitioned to the Deputy Commissioner with acceleration. I therefore find the 2nd issue against the Defendant —

9. The next issue is for what period and why the Emoluments pertaining to the Shrubbery office of the Mudalinship were being disbursed to the Plaintiff — I think this point is not at issue between the two parties, it forms one of the several grounds upon which the 3rd issue is based and is therefore merged in the latter A separate discussion on this particular point is unnecessary.

10. The fourth and the last issue is, why was the Plaintiff aggrieved of the Right of

#6

in the shanbogueship of the Madalur Tirka, viz Taluk, was divided Equally between the fathers of the Plaintiff and the Defendant, and that their relative hak continued to be enjoyed by their sons until the year 1885-86.

That he possesses one half share in the shanboguie hak of the Madalur Tirkha, has already been recognized by the then Deputy Commissioner of Tumkur in the year 1880; and that he should have been in charge of a Tirkha himself, Equal to his one half share, if the said Tirkha was suitable to be divided into two separate charges during the Tukka Potji Settlement. Notwithstanding the appointment of the Defendant Krishnappa to the Shanboguship of the entire Tirka, it is alleged that the total Emoluments were however divided between the Plaintiff and the Defendant

in two Equal part, the portion belonging to the former being disbursed to him publicly by Government, until the year 1885-86.

Before discussing the pro and cons of this issue, we shall dispose of the remaining issues which are of minor importance ——

8. The 2nd issue is whether the petition adressed to the Deputy Commissioner jointly by the Plaintiff as well as the Defendant, ~~at the~~ was given by the latter voluntarily or not. Altho it may be admitted that the defendant at the time of ~~Shantapur~~ Submitting a petition to the Deputy Commissioner in the year 1880, was not far advanced in his age, yet there is no evidence to show that he was then either a minor or that his consent was obtained thro' fraud or misrepresentation. With the exception of the Defendant's allegation, there is no proof whatever to show that the petition above referred to was not Submitted

to

of Engineers an office held jointly by his father and also the father of the defendant. Exhibit D, which is an order passed by the Deputy Commissioner in the year 1882 and which has been evidently admitted by both the parties, will give a clear account as to why the plaintiff was not able to get himself confirmed in the Shanbogue appointment either in respect of the entire Fariha or at least as regards any portion of it. I do not understand for what purpose this issue was framed. I do not see the necessity for or propriety of discussing and disposing of this issue either ——

11 An important question suggests itself to me, which I think ought to have been framed as an issue.

The Defendant alleges that the right possessed by the parties in the Shanbogueship of the Inadlur Fariha forms only a portion

of.

9

possess any kaṛ in the Shanbogueship
of the 151 villages of the Madalur Perkina
now in dispute The Shanbogue's Registers
of Kallur and Kottada Perkina of the
year 1865 marked as Exhibits A and
L the petition addressed to the Deputy-
Commissioner of Tumkur and the order
passed by him in the year 1870 marked
as Exhibit K and D respectively, and
the document said to have been executed
by Siddaveerappa marked
as Exhibit M will tend to show that
the Shanbogue kaṛ of the 151 villages of
the Madalur Perkina has long remained
intact and quite independent of that
of the remaining villages which seem
to have been grouped into separate
Perkinas many years ago, each Perkina
being held separately by an Hereditary
I think the above Evidence is conclusive
proof

proof to show that the joint Shanbogai
half of the forty villages is not held by all
the Hissadars in common, and that it
was, on the other hand, divided several
years ago, the Plaintiff and the Defendant
enjoying the office of the Maalur Taluka
and the other two Hissadars viz Kottada
Rangama and Basaiya son of Venkatadasiya
holding the Shanbogai office of Kotta
and Nailkunte Talukas ——

From the circumstances of the case,
it may seem doubtful whether the Shanbogai
half of the 13 villages of the Maalur Taluka
has been divided or not between the
Plaintiff and the Defendant. ——
All the Shanbogai office could
not be divided into two charges by
Government as was done in the case
of the remaining two Hissedars, and as
will be seen from the opinion Commissioner

the Plaintiff and the Defendant are said to belong, is divided or not. The Defendants' Pleader Mr. Ramadusappa argues to the effect that it is not. Whereas from the arguments put forward by the Pleader on the opposite side, the joint hak is said to have been divided long ago- Witnesses Shanbogue Ringanna of Kotta and Dasappa of Mailkunte who are the two other cosharers whom the Defendant desired to be joined as parties to the suit, have deposed to the effect that the joint hak of the whole forty two villages has been divided that the Plaintiff and the Defendant got the Madalur Firka consisting of 13 Villages for their share and the Kotta and Mailkunte Firkhas consisting of 29 villages having fallen to their share and that they do not therefore

possess.

Certain hon. dated 6th May, 1887, yet there
of documentary evidence
is an abundance to show, that at any
Late the profits accruing from the
office, & the Emoluments, were being
divided equally between the two parties
Exhibits E, & J. will decide whether
or not the Plaintiff was enjoying until
the year 1885-86, one half share of the
hire pertaining to the office of the Auditor
Price how did the defendant in entitled
to suit the convenience of the government
I think no further Evidence is necessary to
decide the question as to whether the proportion
of the hire which the Plaintiff regarding
the Auditorship office in question, independent
of any other hire, was one half or one fifth
I have no doubt that it is the former
Altho' there does not appear that any regular
partition deed was ever Executed, I conclude
from

from the circumstances of the case and from the evidence alluded to above, that the joint Khandoji, Kak of the forty two villages which is said to have belonged to one common ancestor was actually divided among the several Kaidars. Exhibit marked No. I which was filed on behalf of the defendant which seems to be a settlement deed, also suggests the fact that the idea of making a division of the said kak among the several members of the family had occurred to them long ago ——

I therefore do not see that there are sufficient grounds for me to enter into the question of how deciding what kak each member of the family is now entitled to, regarding the kak of forty villages. I think the open communication of the plaintiff, the defendant, and two other Kaidars having practically divided their interests in the joint

joint Shanbogué Kuti, and from enjoying
the same from a very long time will
certainly prevent the court from making
a fresh division. For the foregoing
reasons I find the 1st issue in favour
of the Plaintiff.

12. The court therefore declares that
the Plaintiff alone possesses one half
share in the Shanbogué Kuti of the
13 Villages belonging to the Inadalur
Firka, that they are now entitled to
the same and that the
Should be registered as such as there is no
by Government authorizing Revenue
definite law framed court to make orders
for the Superintendent Environment of Shanbogué
offices by Division, the Defendant possession
of the office cannot now be disturbed.

But in the event of the Government
finding it convenient at any time before
the occurrence of a vacancy, to divide
the Firka into two Equal and separate

Charges

charge the Plaintiff and the Defendant should be placed each in charge of one Pirka. If this is not possible, the Plaintiff should be placed in possession of the entire Pirka for a certain length of time, and soon as a vacancy occurs ——

Each party to bear his own costs ——

/Signed/ B. J. Kumarswami Naick

Dy Assistant Commissioner

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W. Kumaraswami

Treasury and Court
Translator &c

Copy applied for by the defendant on 3-8-94.
— do —— ready on —— 16-8-94
do —— delivered on — 22-8-94 —

No of words. 3240

Fees 3-1-6

Comparing —11—

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Signed B. J. Kumaraswami Naik

Treasury Assistant Commissioner

Countersigned

Treasury Assistant Commr

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ప్రతి పంపిన తేదీ } 13-8-1894.

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పొందిన తేదీ — 22-8-1894.

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Before the Government ~~of His Highness the Maharaja~~ of Mysore.

(5)

Appeal No. 92 of 1894-95

L.R. 140-94-4

Appellant. Vs. Respondent.

Krishnappa of Madalur by Mr. S. Srinivasiengar and Ramadasappa

Rangappa by Vaidya K. Ramaswamiengar and S. Ramaswamiengar

The Plaintiff sue for the recovery of a half share in the Shanbhogi of Madalur Hobli in the Sira Taluk. The rights in respect whereof the Plaintiff was entitled to and are exercised by the Hak Dasturdar. The Shanbhogi Inamdar did not pay any rent to Government, but had to perform certain duties connected with the village accounts.

The Subordinate Judge dismissed the suit on the ground that the Plaintiff had failed to prove that he was entitled to a half share in the Shanbhogi Inam, but on appeal the District Judge reversed that decree and decreed the suit, holding that the Plaintiff had established his right to a half share in the Shanbhogi of the said Hobli, but on appeal the District Judge reversed that decree and decreed the suit, holding that the Plaintiff had established his right to a half share in the Shanbhogi of the said Hobli, but on appeal the District Judge reversed that decree and dismissed the suit, holding that the Plaintiff should have the office of the Madalur village and the Respondent that of the other villages in the Hobli.

In this case both the lower Courts have found concurrently that the Plaintiff is a half Shanbhogi of the villages in dispute. This finding is supported by Exhibits D & E of deputy Commissioner passed in 1880, and K a petition presented by both these parties to that officer during the settlement of 1880. Defendant also in the appellant before Government contends that K was not a voluntary executed document.

But the Courts have found this point in the negative. It seems to Government unnecessary to reopen this question which has been found concurrently by both the Courts. The Plaintiff is entitled to be registered as a half Biswadar

2. But the decree given by the Deputy Comm[r] in reversal of the decree of the Asst Commissioner divides one charge into two portions. This proceeding is opposed to the view taken by Government in Order No 11829-37 / Pet 735-94 of the 24th January 1895. So long ago as 1880, the Deputy Commissioner thought that the splitting up of these villages into two charges was unnecessary and this view commends itself to Government as being sound. The direction now made by the Deputy Comm[r]

13. Deputy Commissioner in his decree contrary to the rule recognized in the order of Court above quoted. In fact the decree will simply declare that the Plaintiff is entitled to half rank and that this declaration be entered in the Shanbogue Barabalavati Register.

By Order

Draft
(2nd Commissioner)

Asst: Secretary

SKR 11/6 SKR

R.O. 24164 / 25-6-95
D.C. 2-34 / 25.

Copy to the Deputy Commissioner Sunkur for direct with the records received with his D.C. 715 of 21-2-95

By Order

11/6/95

Asst: Secretary

20/6/95

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LR 140-94-6 (4)

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By Order

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28-6-95

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